

CHAPTER 9: AIRPORT OVERLAY ZONE

901 PURPOSE

The purpose of this overlay zone is to encourage and support the continued operation and vitality of the Decorah Municipal Airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near the Airport.

902 DEFINITIONS

902.1 Airport

The strip of land making up the Decorah Municipal Airport used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.

902.2 Airport Direct Impact Area

The area located within 5,000 feet of an airport runway, excluding lands within the runway protection zone and approach surface.

902.3 Airport Elevation

The highest point of an airport's usable runway, which is established to be 1156.6 feet above mean sea level.

902.4 Airport Imaginary Surfaces

Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.

902.5 Airport Secondary Impact Area

The area located between 5,000 and 10,000 feet from the airport runway.

902.6 Airport Sponsor

The owner, manager, or other person or entity designated to represent the interests of the airport.

902.7 Antenna

Any exterior apparatus designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services. For the purposes of this ordinance the term "antenna" does not include any tower and antenna under fifty 50 feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission, any device designed for over-the-air reception of radio or television broadcast signals, multi-channel multi-point distribution service or direct broadcast satellite service, or any cable television headend or hub towers and antennae used solely for cable television services.

902.8 Approach Surface

A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

- (1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of 2,000 feet.
- (2) The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward.
- (3) The outer width of the approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- (4) The inner edge of the secondary approach surface is 2000 feet in width, the same width as the approach surface at its greatest point of horizontal extension at 5,000 feet, and it expands uniformly to a width of 4,000 feet.
- (5) The secondary approach surface extends for an additional horizontal distance of 5,000 feet beyond the greatest point of horizontal extension of the approach surface at a slope of twenty feet outward for each foot upward.
- (6) The outer width of the secondary approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

902.9 Commission

The Zoning Commission established by the City of Decorah in accordance with Section 414.4, 414.6 of the Code of Iowa.

902.10 Conical Surface

A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

902.11 Dwelling

Any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

902.12 FAA

The Federal Aviation Administration.

902.13 Height

The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

902.14 Horizontal Surface

A horizontal plane 150 feet above the established airport elevation of 1156.6 feet, the perimeter of which is constructed by swinging arcs of radii 10,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

902.15 Obstruction

Any structure, growth or other object, including mobile object, which penetrates an imaginary surface. Also, any traverse ways that penetrate an imaginary surface after the heights of these traverse ways are increased by:

- (1) Seventeen feet for an Interstate Highway.
- (2) Fifteen feet for any other public roadway.
- (3) Ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.
- (4) Twenty-three feet for a railroad.

902.16 Primary Surface

A surface longitudinally centered on the runway that extends 200 feet beyond each end of the runway, the elevation of which at any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet.

902.17 Public Assembly Facility

A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.

902.18 Runway

A defined area on an airport prepared for landing and takeoff of aircraft along its length.

902.19 Runway Protection Zone (RPZ)

An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of 1,000 feet.

902.20 Significant

As it relates to bird strike hazards, "significant" means a level of increased flight activity by birds across an approach surface or runway that is more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity.

902.21 Structure

Any constructed or erected object that requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

902.22 Telecommunications Facilities

Antennae and towers, either individually or together.

902.23 Tower

A structure, such as a lattice tower, guy tower, or monopole tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, on which is located one or more antennae intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term includes microwave towers, common carrier towers, and cellular telephone towers.

902.24 Transitional Surface

Those surfaces that extend upward and outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 1,050 feet measured horizontally from the edge of the approach surface at a 90 degree angle to the extended runway centerline.

902.25 Water Impoundment

Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of this ordinance.

902.26 Zoning Administrator

Unless otherwise stated, shall mean the Zoning Official the City of Decorah.

903 IMAGINARY SURFACE

The airport elevation, direct and secondary impact boundaries, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, secondary approach surface, horizontal surface and transitional surface shall be delineated for the airport and shall be made part of the Airport Safety Overlay Zone Map.

904 HEIGHT LIMITATION ON ALLOWED USES IN UNDERLYING ZONES

All uses permitted by the underlying zone shall comply with the height limitations of Chapter 17.128 of the Decorah City Code. When height limitations are in conflict, the more restrictive limitations shall control.

- (1) Except as provided in subsections B and C of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.
- (2) For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at a higher elevation than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, the City or County may authorize structures up to 35 feet in height.
- (3) Other height exceptions or variances may be permitted but must follow the procedures for variance approval within the City.

905 LAND USE COMPATIBILITY REQUIREMENTS

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of this chapter as provided herein.

- (1) Outdoor Lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach and secondary approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach and secondary approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.
- (2) Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach and secondary approach surface or on nearby lands where glare could impede a pilot's vision.

- (3) Industrial Emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach and secondary approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The Planning Commission shall impose such conditions as necessary to ensure that the use does not obscure visibility.
- (4) Telecommunications Facilities and Electrical Interference. No use shall cause or create electrical interference with navigational signals or radio communications between the airport and aircraft. Proposals for the location of new or expanded radio, cellular, and television transmission facilities and electrical transmission lines within this overlay zone shall be approved by the Planning & Zoning Commission. Approval of towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to ensure this result.
- (5) Limitations and Restrictions on Allowed Uses in the RPZ, Approach Surface, and Airport Direct and Secondary Impact Areas. The land uses identified in Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in this Section, a limited use means a use that is allowed subject to special standards specific to that use. All land uses shall be subject to restrictions resulting from the enforcement of height restrictions imposed by the FAA to manage imaginary surfaces.

TABLE 1

Location	Public Assembly	Residential	Commercial	Industrial	Institutional	Communication Towers	Farm Use	Roads/Parking	Utilities	Parks/Open Space	Golf Course	Athletic Fields	Sanitary Landfills	Water Treatment Plants	Mining	Water Impoundment	Wetland Mitigation
RPZ ₁	L ₂	N	N	N	N	N	P ₃	L ₄	L ₅	L ₆	N	N	N	N	N	N	N
Approach Surface ₈	L ₉	L ₁₀	L ₁₅	L ₉	L ₉	L ₁₇	P ₃	P	L ₅	P	L _{7, 9}	L ₉	N	N	L ₁₁	N/L ₁₂	L ₁₃
Direct Impact Area	P	L ₁₀	L ₁₅	P	L ₁₅	L ₁₈	P ₃	P	L ₅	P	L ₇	L ₁₄	N	N	L ₁₁	L ₁₆	L ₁₃
Secondary Impact Area	P	P	P	P	P	L ₁₈	P ₃	P	L ₅	P	L ₇	P	N	P	L ₁₁	L ₁₆	P ₁₃

P = Use is Permitted

L = Use is Allowed Under Limited Circumstances (See Footnotes)

N = Use is Not Allowed

Table 1 Footnotes:

1. No structures shall be allowed within the Runway Protection Zone. Exceptions shall be made only for structures accessory to airport operations whose location within the RPZ has been approved by the Federal Aviation Administration.
2. In the RPZ, public airport uses are restricted to those uses and facilities that require location in the RPZ.
3. Farming practices that minimize wildlife attractants are encouraged.
4. Roads and parking areas are permitted in the RPZ only upon demonstration that there are no practicable alternatives. Lights, guardrails and related accessory structures are prohibited. Cost may be considered in determining whether practicable alternatives exist.
5. In the RPZ, utilities, powerlines and pipelines must be underground. In approach surfaces and in airport direct and secondary impact areas, the proposed height of utilities shall be coordinated with the City Council or County Board.
6. Public assembly facilities are prohibited within the RPZ.
7. Golf courses may be permitted only upon demonstration, supported by substantial evidence, that management techniques will be utilized to reduce existing wildlife attractants and avoid the creation of new wildlife attractants. Such techniques shall be required as conditions of approval. Structures are not permitted within the RPZ. For purposes of this Chapter, tee markers, tee signs, pin cups and pins are not considered to be structures.
8. Within 5,000 feet from the end of the primary surface of the nonprecision instrument runway.

9. Public assembly facilities may be allowed in an approach surface only if the potential danger to public safety is minimal. In general, high-density uses should not be permitted within airport approach surfaces, and non-residential structures should be located outside approach surfaces unless no practicable alternatives exist. Any commercial or industrial use which meets the following minimum standards are allowed: (1) Each single commercial or industrial site shall not be less than twenty acres in size and shall contain no dwellings; (2) The use shall not permit, require, cause, or attract an assembly or concentration, public or private, at any one time, regardless of duration, of more than eighty persons per commercial or industrial site, or more than twenty persons in any one acre of such site; (3) Churches, hospitals, schools, theaters, stadia, hotels, motels, trailer courts, campgrounds, multi-unit dwellings, and other places of frequent public assembly are specifically prohibited.
10. Residential densities within approach surfaces should not exceed the following densities: (1) within 500 feet of the outer edge of the RPZ, 1 unit/acre; (2) within 500 to 1,500 feet of the outer edge of the RPZ, 2 units/acre; (3) within 1,500 to 3,000 feet of the outer edge of the RPZ, 4 units/acre. Within the Approach Surface, there shall not be more than one (1) single-family dwelling and accessory buildings per five-acre tract of land.
11. Mining operations involving the creation or expansion of water impoundments shall comply with the requirements of this Chapter regulating water impoundments.
12. Water impoundments are prohibited within 5,000 feet from the end of a runway. See Section 080 regulating water impoundments beyond 5,000 feet from the edge or end of a runway.
13. Wetland mitigation required for projects located within an approach surface or airport direct or secondary impact area shall be authorized only upon demonstration, supported by substantial evidence, that it is impracticable to provide mitigation outside of these areas. Proposals for wetland mitigation shall be coordinated with the City Council, County Board, the FAA, and wetland-permitting agencies prior to the issuance of required permits. Wetland mitigation shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways and approach surfaces. Conditions shall be imposed as are appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces. See Section 090 for best management practices for airports located near significant wetlands or wildlife habitat areas.
14. Within the transition surface, residential uses are limited to two (2) single-family dwellings per acre and athletic fields are not permitted.
15. Within the transition surface, overnight accommodations, such as hotels, motels, hospitals and dormitories, are not permitted.
16. See Section 080 prohibiting or regulating water impoundments beyond 5,000 feet from the edge or end of a runway.
17. Telecommunication facilities and towers with antenna whose total height exceeds 50 feet are prohibited from locating in the approach surface and secondary approach surface.
18. Telecommunication facilities and towers within the Direct Impact Area whose height exceeds fifty (50) feet shall be subject to review by the Zoning Administrator. If it is determined that the proposed facilities pose flight and navigation hazards for arrival and departure flight operations, the facility may be prohibited or altered at the request of the Zoning Administrator.

906 WATER IMPOUNDMENTS WITHIN APPROACH SURFACES AND AIRPORT
DIRECT AND SECONDARY IMPACT BOUNDARIES

No new or expanded water impoundments of one-quarter acre in size or larger are permitted within the primary approach surface or on land owned by the City that is necessary for airport operations.

907 WETLAND MITIGATION, CREATION, ENHANCEMENT AND RESTORATION
WITHIN APPROACH SURFACES AND AIRPORT DIRECT AND SECONDARY
IMPACT BOUNDARIES

Notwithstanding the requirements of Section 080, wetland mitigation, creation, enhancement or restoration projects located within areas regulated under Section 080 shall be allowed upon demonstration of compliance with this requirements of this Section.

- (1) Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of this ordinance and located within areas regulated under Section 080 are recognized as lawfully existing uses.
- (2) To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but outside approach surfaces the areas regulated under Section 080 is encouraged.
- (3) Applications to expand wetland mitigation projects in existence as of the effective date of this ordinance, and new wetland mitigation projects, that are proposed within areas regulated under Section 080 shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:
 - (a) It is not practicable to provide off-site mitigation; or
 - (b) The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.
- (4) Wetland mitigation permitted under subsection D. of this Section shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.
- (5) Applications to create, enhance or restore wetlands that are proposed to be located within approach surfaces or within areas regulated under Section 080, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:
 - (a) The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge; and

- (b) The wetland creation, enhancement or restoration is designed and will be maintained in perpetuity in a manner that will not increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.
- (6) Proposals for new or expanded wetland mitigation, creation, enhancement or restoration projects regulated under this Section shall be coordinated with all applicable organizations.
- (7) A decision approving an application under this Section shall require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

908 NONCONFORMING USES

These regulations shall not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations, and shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this overlay zone. Every existing structure, final plat, and-site plan shall be considered as a conforming use with this Ordinance so long as the structure, plat or plan satisfied the requirements of the applicable airport height ordinance at the time of its approval. In addition, any filed but not yet finally approved preliminary plat application which is pending at the time this Ordinance becomes effective shall be considered as a conforming use with this Ordinance so long as the ensuing final plat is recorded within two years of the date this Ordinance becomes effective.

- (1) Notwithstanding subsection A. of this Section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the FAA shall install or allow the installation of obstruction markers as deemed necessary by the FAA, so that the structures become more visible to pilots.
- (2) No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this overlay zone.

909 AVIGATION EASEMENT

Within this overlay zone, the owners of properties that are the subjects of applications for land use or limited land use decisions, for building permits for new residential, commercial, industrial, institutional or recreational buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such buildings or structures by the lesser of 50% or 1000 square feet, shall, as a condition of obtaining such approval or permits, dedicate an avigation easement to the City. The avigation easement shall be in a form acceptable to the City and shall be signed and recorded in the deed records of the County. The avigation easement shall allow unobstructed passage for aircraft and ensure safety and use of the airport for the public. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of building permits.

910 NOISE SENSITIVITY ZONES

Land use noise sensitivity zones shall be established when requested by the Commissioner or by the governmental unit having airport zoning powers. The governmental unit having zoning powers, when required by the Commissioner, shall secure a study as to the boundaries of the area to be zoned for this purpose and the uses permitted therein.

911 AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the City of Decorah Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished by either the Winneshiek County Planning Department or City of Decorah Office of Planning and Zoning. Permit applications shall be promptly considered by the Zoning Administrator in accordance with the Winneshiek County Comprehensive Plan, Winneshiek County Zoning Ordinance II, and Subdivision Regulations if the proposed activity is outside of the City of Decorah corporate limits. If the proposed activity is within the City of Decorah corporate limits, the Zoning Administrator shall consider the request in accordance with the City of Decorah Comprehensive Plan, City of Decorah Zoning Ordinance and Subdivision Regulations.

- (1) Rezoning Applications will be considered by the Commission with approval or denial of a request by the City Council.
- (2) Variance applications for action by the Board are hereinafter provided for.

912 PROCEDURES

An applicant seeking a land use or limited land use approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application to the Zoning Administrator:

- (1) A map or drawing showing the location of the property in relation to the airport imaginary surfaces.
- (2) Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed highest structure or object, measured in feet above mean sea level.
- (3) If a height variance is requested, letters of support from the Airport Commission, IDOT Department of Aviation and the FAA.
- (4) If deemed warranted by the Federal Aviation Administration, Zoning Administrator, Commission, Board of Adjustment or the Airport Commission, a plan for obstruction marking and lighting may be required.

913 PERMITS

- (1) Future Uses: Except as specifically provided in Paragraphs 1 and 2 hereunder, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone hereby created unless a permit has been applied for and granted by the Zoning Administrator. Each permit application shall indicate the purpose for which the permit is desired, with sufficient detail to define the conformance to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
 - (a) However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 5,000 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone.
 - (b) Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by Chapter 17.128 of the Decorah City Code.
- (2) Existing Uses: Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto, or then it is when the application for a permit is made. Except as indicated all applications for such a permit shall be granted.

- (3) Nonconforming Uses Abandoned or Destroyed: Whenever the Zoning Administrator determines that a nonconforming structure or tree has been abandoned or more than eighty percent (80%) torn down, deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit under this paragraph or not, the Zoning Administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at their expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this Ordinance. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for ten (10) days after receipt of written notice of such order, the Zoning Administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within ninety days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of eight (8) percent per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner, as are general taxes.

914 VARIANCES

Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this Ordinance may apply to the Board of Adjustment, hereinafter provided for, for a variance from such regulations.

915 APPEALS

- (1) Any person aggrieved, or any taxpayer affected by any decision of the Zoning Administrator made in the administration of this Ordinance may appeal to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, township, county, which is of the opinion that a decision of the Zoning Administrator is an improper application of this Ordinance as it concerns such governing body or Board.
- (2) All appeals hereunder must be commenced within 30 days of the Zoning Administrator's decision, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decisions of the Zoning Administrator made in his administration of this Ordinance who desires to appeal such decision shall submit an application for a variance, by certified mail, to the member of the Board of Adjustment.
- (3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment after the

notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.

- (4) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney.
- (5) The Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Zoning Administrator.

916 JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, township, county which is of the opinion that a decision of the Board of Adjustment is illegal may present to the District Court of Winneshiek County a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the Board of Adjustment. The petitioner must exhaust the remedies provided in this Ordinance before availing himself of the right to petition a court as provided by this Section.

917 PENALTIES

Every person who shall construct, establish, substantially change, alter or repair any existing structure of use, or permit the growth of any tree without having complied with the provision of this Ordinance or who, having been granted a permit or variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$700 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense. The Zoning Administrator may enforce all provisions of this Ordinance through such proceedings for injustice relief and other relief as may be proper under the laws of State of Iowa.

918 CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

919 SEVERABILITY

- (1) In any case in which the provision of this Ordinance, although generally reasonable, is held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.
- (2) Should any Section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.